



January 16, 2009

SENATE BILL No. 122

DIGEST OF SB 122 (Updated January 14, 2009 11:13 am - DI 106)

Citations Affected: IC 2-5; IC 3-8; IC 3-10; IC 3-11; IC 3-13; IC 5-8; IC 5-22; IC 9-24; IC 9-30; IC 11-13; IC 12-7; IC 15-15; IC 32-26; IC 32-31; IC 33-23; IC 33-24; IC 33-28; IC 33-30; IC 33-32; IC 33-33; IC 33-37; IC 33-38; IC 33-41; IC 34-9; IC 34-24; IC 34-28; IC 34-35; IC 35-33; IC 35-38; IC 36-2; IC 36-7.

Synopsis: Various provisions concerning courts. Repeals laws concerning the establishment and operation of county courts. (As of January 1, 2009, no county court will exist in Indiana.) Makes conforming amendments. Removes references to municipal courts. (Municipal courts ceased to exist on January 1, 1996.) Makes conforming amendments. Allows a person to participate in a court established alcohol and drug service program if the person is: (1) arrested for a misdemeanor or felony; or (2) referred to the program by another court, a probation department, the department of correction, the Federal Bureau of Prisons, the division of mental health and addiction, a prosecuting attorney's office, or pretrial services. Allows former holders of a judicial office who served at least four consecutive years as a judge or justice to serve as private judges. (Current law allows only former judges of circuit, superior, criminal, probate, municipal, or county courts to serve as private judges.) Allows domestic relations cases to be assigned to private judges. (The introduced version of this bill was prepared by the commission on courts.)

Effective: July 1, 2009.

Bray, Head, Lanane, Broden

January 7, 2009, read first time and referred to Committee on Judiciary.
January 15, 2009, amended, reported favorably — Do Pass.

SB 122—LS 6219/DI 69+



C
o
p
y

January 16, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 122

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 2-5-1.5-5, AS AMENDED BY P.L.127-2008,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 5. As used in this chapter, "public officer" refers
4 to any of the following:

- 5 (1) The governor.
- 6 (2) The lieutenant governor.
- 7 (3) The secretary of state.
- 8 (4) The auditor of state.
- 9 (5) The treasurer of state.
- 10 (6) The attorney general.
- 11 (7) The state superintendent of public instruction.
- 12 (8) A justice of the supreme court of Indiana.
- 13 (9) A judge of the court of appeals of Indiana.
- 14 (10) A judge of the Indiana tax court.
- 15 (11) A judge of a circuit, superior, **or** probate ~~or county~~ court.
- 16 (12) A member of the general assembly.

17 SECTION 2. IC 3-8-1-33, AS AMENDED BY P.L.2-2005,

SB 122—LS 6219/DI 69+



C
o
p
y

SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 33. (a) A candidate for an office listed in subsection (b) must file a statement of economic interests.

(b) Whenever a candidate for any of the following offices is also required to file a declaration of candidacy or is nominated by petition, the candidate shall file a statement of economic interests before filing the declaration of candidacy or declaration of intent to be a write-in candidate, before the petition of nomination is filed, before the certificate of nomination is filed, or before being appointed to fill a candidate vacancy under IC 3-13-1 or IC 3-13-2:

(1) Governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, and state superintendent of public instruction, in accordance with IC 4-2-6-8.

(2) Senator and representative in the general assembly, in accordance with IC 2-2.1-3-2.

(3) Justice of the supreme court, judge of the court of appeals, judge of the tax court, judge of a circuit court, judge of a superior court, ~~judge of a county court~~, judge of a probate court, and prosecuting attorney, in accordance with IC 33-23-11-14 and IC 33-23-11-15.

SECTION 3. IC 3-10-1-19, AS AMENDED BY P.L.146-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 19. (a) The ballot for a primary election shall be printed in substantially the following form for all the offices for which candidates have qualified under IC 3-8:

OFFICIAL PRIMARY BALLOT

_____ Party

For paper ballots, print: To vote for a person, make a voting mark (X or ✓) on or in the box before the person's name in the proper column. For optical scan ballots, print: To vote for a person, darken or shade in the circle, oval, or square (or draw a line to connect the arrow) that precedes the person's name in the proper column. For optical scan ballots that do not contain a candidate's name, print: To vote for a person, darken or shade in the oval that precedes the number assigned to the person's name in the proper column. For electronic voting systems, print: To vote for a person, touch the screen (or press the button) in the location indicated.

Vote for one (1) only

Representative in Congress

☐ (1) AB _____

☐ (2) CD _____

☐ (3) EF _____

C
o
p
y



[] (4) GH _____

(b) The offices with candidates for nomination shall be placed on the primary election ballot in the following order:

(1) Federal and state offices:

(A) President of the United States.

(B) United States Senator.

(C) Governor.

(D) United States Representative.

(2) Legislative offices:

(A) State senator.

(B) State representative.

(3) Circuit offices and county judicial offices:

(A) Judge of the circuit court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the circuit court.

(B) Judge of the superior court, and unless otherwise specified under IC 33, with each division separate if there is more than one (1) judge of the superior court.

(C) Judge of the probate court.

~~(D) Judge of the county court, with each division separate, as required by IC 33-30-3-3.~~

~~(E)~~ (D) Prosecuting attorney.

~~(F)~~ (E) Circuit court clerk.

(4) County offices:

(A) County auditor.

(B) County recorder.

(C) County treasurer.

(D) County sheriff.

(E) County coroner.

(F) County surveyor.

(G) County assessor.

(H) County commissioner.

(I) County council member.

(5) Township offices:

(A) Township assessor (only in a township referred to in IC 36-6-5-1(d)).

(B) Township trustee.

(C) Township board member.

(D) Judge of the small claims court.

(E) Constable of the small claims court.

(6) City offices:

(A) Mayor.

C
o
p
y



- 1 (B) Clerk or clerk-treasurer.
 2 (C) Judge of the city court.
 3 (D) City-county council member or common council member.
 4 (7) Town offices:
 5 (A) Clerk-treasurer.
 6 (B) Judge of the town court.
 7 (C) Town council member.
 8 (c) The political party offices with candidates for election shall be
 9 placed on the primary election ballot in the following order after the
 10 offices described in subsection (b):
 11 (1) Precinct committeeman.
 12 (2) State convention delegate.
 13 (d) The following offices and public questions shall be placed on the
 14 primary election ballot in the following order after the offices described
 15 in subsection (c):
 16 (1) School board offices to be elected at the primary election.
 17 (2) Other local offices to be elected at the primary election.
 18 (3) Local public questions.
 19 (e) The offices and public questions described in subsection (d)
 20 shall be placed:
 21 (1) in a separate column on the ballot if voting is by paper ballot;
 22 (2) after the offices described in subsection (c) in the form
 23 specified in IC 3-11-13-11 if voting is by ballot card; or
 24 (3) either:
 25 (A) on a separate screen for each office or public question; or
 26 (B) after the offices described in subsection (c) in the form
 27 specified in IC 3-11-14-3.5;
 28 if voting is by an electronic voting system.
 29 (f) A public question shall be placed on the primary election ballot
 30 in the following form:
 31 (The explanatory text for the public question,
 32 if required by law.)
 33 "Shall (insert public question)?"
 34 ☐ YES
 35 ☐ NO
 36 SECTION 4. IC 3-10-2-11 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) A judge of the
 38 circuit court shall be elected at:
 39 (1) the first general election following an appointment by the
 40 governor to fill a vacancy in the office of judge of the circuit
 41 court; or
 42 (2) the general election before the term of the judge expires under

C
o
p
y



Article 7, Section 7 of the Constitution of the State of Indiana;
whichever occurs first, and every six (6) years thereafter.

(b) Except as otherwise provided by law, judges of the superior **and**
probate ~~and county~~ courts shall be elected at the general election before
their terms of office expire and every six (6) years thereafter.

SECTION 5. IC 3-11-2-12, AS AMENDED BY P.L.146-2008,
SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2009]: Sec. 12. The following offices shall be placed on the
general election ballot in the following order:

(1) Federal and state offices:

- (A) President and Vice President of the United States.
- (B) United States Senator.
- (C) Governor and lieutenant governor.
- (D) Secretary of state.
- (E) Auditor of state.
- (F) Treasurer of state.
- (G) Attorney general.
- (H) Superintendent of public instruction.
- (I) United States Representative.

(2) Legislative offices:

- (A) State senator.
- (B) State representative.

(3) Circuit offices and county judicial offices:

- (A) Judge of the circuit court, and unless otherwise specified
under IC 33, with each division separate if there is more than
one (1) judge of the circuit court.
- (B) Judge of the superior court, and unless otherwise specified
under IC 33, with each division separate if there is more than
one (1) judge of the superior court.
- (C) Judge of the probate court.
- ~~(D) Judge of the county court, with each division separate, as
required by IC 33-30-3-3.~~
- ~~(E)~~ **(D)** Prosecuting attorney.
- ~~(F)~~ **(E)** Clerk of the circuit court.

(4) County offices:

- (A) County auditor.
- (B) County recorder.
- (C) County treasurer.
- (D) County sheriff.
- (E) County coroner.
- (F) County surveyor.
- (G) County assessor.

C
o
p
y



- 1 (H) County commissioner.
 2 (I) County council member.
 3 (5) Township offices:
 4 (A) Township assessor (only in a township referred to in
 5 IC 36-6-5-1(d)).
 6 (B) Township trustee.
 7 (C) Township board member.
 8 (D) Judge of the small claims court.
 9 (E) Constable of the small claims court.
 10 (6) City offices:
 11 (A) Mayor.
 12 (B) Clerk or clerk-treasurer.
 13 (C) Judge of the city court.
 14 (D) City-county council member or common council member.
 15 (7) Town offices:
 16 (A) Clerk-treasurer.
 17 (B) Judge of the town court.
 18 (C) Town council member.
 19 SECTION 6. IC 3-13-6-1, AS AMENDED BY P.L.119-2005,
 20 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2009]: Sec. 1. (a) As used in this section, "judge" refers to a
 22 judge of a circuit, superior, ~~or~~ probate ~~or~~ county court.
 23 (b) If a judge wants to resign from office, the judge must resign as
 24 provided in IC 5-8-3.5.
 25 (c) A vacancy that occurs because of the death of a judge may be
 26 certified to the governor under IC 5-8-6.
 27 (d) A vacancy that occurs, other than by resignation or death of a
 28 judge, shall be certified to the governor by the circuit court clerk of the
 29 county in which the judge resided.
 30 (e) A vacancy in the office of judge of a circuit court shall be filled
 31 by the governor as provided by Article 5, Section 18 of the Constitution
 32 of the State of Indiana. However, the governor may not fill a vacancy
 33 that occurs because of the death of a judge until the governor receives
 34 notice of the death under IC 5-8-6. The person who is appointed holds
 35 the office until:
 36 (1) the end of the unexpired term; or
 37 (2) a successor is elected at the next general election and
 38 qualified;
 39 whichever occurs first. The person elected at the general election
 40 following an appointment to fill the vacancy, upon being qualified,
 41 holds office for the six (6) year term prescribed by Article 7, Section 7
 42 of the Constitution of the State of Indiana and until a successor is

C
o
p
y



1 elected and qualified.

2 (f) A vacancy in the office of judge of a superior, ~~or~~ probate ~~or~~
3 ~~county~~ court shall be filled by the governor subject to the following:

4 (1) IC 33-33-2-39.

5 (2) IC 33-33-2-43.

6 (3) IC 33-33-45-38.

7 (4) IC 33-33-71-40.

8 However, the governor may not fill a vacancy that occurs because of
9 the death of a judge until the governor receives notice of the death
10 under IC 5-8-6. The person who is appointed holds office for the
11 remainder of the unexpired term.

12 SECTION 7. IC 5-8-1-19 IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2009]: Sec. 19. (a) Under Article 7, Section 13
14 of the Constitution of the State of Indiana, whenever a circuit, superior,
15 ~~or~~ probate ~~or~~ ~~county~~ court judge or prosecuting attorney has been
16 convicted of corruption or any other high crime, the attorney general
17 shall bring proceedings in the supreme court, on information, in the
18 name of the state, for the removal from office of the judge or
19 prosecuting attorney.

20 (b) If the judgment is against the defendant, the defendant is
21 removed from office. The governor, the officer, or the entity required
22 to fill a vacancy under IC 3-13-6-2 shall, subject to:

23 (1) IC 33-33-2-39;

24 (2) IC 33-33-2-43;

25 (3) IC 33-33-45-38; and

26 (4) IC 33-33-71-40;

27 appoint or select a successor to fill the vacancy in office.

28 SECTION 8. IC 5-22-4-3 IS AMENDED TO READ AS FOLLOWS
29 [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) Except as provided in
30 subsections (c) and (d), a court in the judicial branch is the purchasing
31 agency for that court.

32 (b) The individuals designated by a court are the purchasing agents
33 for that court.

34 (c) Notwithstanding subsections (a) and (b), if a county has
35 established a purchasing agency for the county, both of the following
36 apply:

37 (1) The purchasing agency established by the county is the
38 purchasing agency for a circuit ~~or~~ superior ~~or~~ ~~county~~ court of the
39 county.

40 (2) Section 5 of this chapter applies to the purchases of a circuit
41 ~~or~~ superior ~~or~~ ~~county~~ court of the county.

42 (d) Notwithstanding subsections (a) and (b), a court may request

C
o
p
y



either of the following to be the purchasing agency for the court:

(1) A purchasing agency of the executive branch.

(2) A purchasing agency of a political subdivision.

If a court requests a purchasing agency described in this subsection to be the purchasing agency for the court, the section of this chapter applicable to that purchasing agency applies to purchases made for the court.

SECTION 9. IC 9-24-2-5, AS AMENDED BY P.L.1-2005, SECTION 108, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) A person whose driving privileges have been invalidated under section 4 of this chapter is entitled to a prompt judicial hearing. The person may file a petition that requests a hearing in a circuit ~~or~~ superior ~~county, or municipal~~ court in the county where:

(1) the person resides; or

(2) the school attended by the person is located.

(b) The petition for review must:

(1) be in writing; and

(2) be verified by the person seeking review and:

(A) allege specific facts that indicate the suspension or expulsion was improper; or

(B) allege that due to the person's emancipation or dependents that an undue hardship exists that requires the granting of a restricted driving permit.

(c) The hearing conducted by the court under this section shall be limited to the following issues:

(1) Whether the school followed proper procedures when suspending or expelling the person from school, including affording the person due process under IC 20-33-8.

(2) Whether the bureau followed proper procedures in invalidating the person's license or permit.

(3) Whether an undue hardship exists that requires the granting of a restricted driving permit.

(d) If the court finds:

(1) that the school failed to follow proper procedures when suspending or expelling the person from school; or

(2) that the bureau failed to follow proper procedures in invalidating the person's license or permit;

the court may order the bureau to reinstate the person's driving privileges.

(e) If the court finds that an undue hardship exists, the court may order a restricted driving permit limiting the petitioner to essential

C
o
p
y



1 driving for work and driving between home, work, and school only.
 2 The restricted driving permit must state the restrictions related to time,
 3 territory, and route. If a court orders a restricted driving permit for the
 4 petitioner, the court shall do the following:

5 (1) Include in the order a finding of facts that states the
 6 petitioner's driving restrictions.

7 (2) Enter the findings of fact and order in the order book of the
 8 court.

9 (3) Send the bureau a signed copy of the order.

10 (f) The prosecuting attorney of the county in which a petition has
 11 been filed under this section shall represent the state on behalf of the
 12 bureau with respect to the petition. A school that is made a party to an
 13 action filed under this section is responsible for the school's own
 14 representation.

15 (g) In an action under this section the petitioner has the burden of
 16 proof by a preponderance of the evidence.

17 (h) The court's order is a final judgment appealable in the manner
 18 of civil actions by either party. The attorney general shall represent the
 19 state on behalf of the bureau with respect to the appeal.

20 SECTION 10. IC 9-30-10-7 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) A petition for
 22 judicial review under this chapter must:

23 (1) be verified by the petitioner;

24 (2) state the petitioner's age, date of birth, place of residence, and
 25 driver's license identification number;

26 (3) state the grounds for relief and the relief sought;

27 (4) be filed in the county in which the petitioner resides; and

28 (5) be filed in a circuit ~~or~~ superior ~~county~~, ~~or municipal~~ court.

29 (b) A summons in an action under this chapter shall be issued and
 30 served in the manner provided for civil actions. The prosecuting
 31 attorney of the county in which the petition is filed and the bureau shall
 32 be served with the summons and a copy of the petition.

33 (c) In an action under this chapter, the petitioner must bear the
 34 burden of proof by a preponderance of the evidence to prevail.

35 (d) IC 9-30-3-15 and the rules of trial procedure apply in a
 36 proceeding under this chapter. However, a responsive pleading is not
 37 required when a petition for review has been filed, and a person is not
 38 entitled to a change of venue from the county.

39 (e) The prosecuting attorney of the county in which the petition is
 40 filed shall represent the state in relation with the bureau.

41 (f) Court costs shall be assessed and paid by the petitioner at the
 42 time of filing in an amount equal to the costs assessed in the

C
o
p
y



enforcement of infractions. However, a petitioner who has the petitioner's driving privileges reinstated under section 8 of this chapter is entitled to a refund of all costs paid.

SECTION 11. IC 11-13-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. There is established within the judicial conference of Indiana a probation standards and practices advisory committee, consisting of the following ~~ten (10)~~ **nine (9)** members, not more than five (5) of whom may be affiliated with the same political party:

- (1) the chief justice of the supreme court or ~~his~~ **the chief justice's** designee, who shall serve as chairman of the committee;
- (2) the commissioner or ~~his~~ **the commissioner's** designee;
- (3) one (1) judge of a circuit or superior court having criminal jurisdiction;
- ~~(4) one (1) judge of a county or municipal court having criminal jurisdiction;~~
- ~~(5) (4)~~ one (1) judge of a circuit or superior court having juvenile jurisdiction;
- ~~(6) (5)~~ one (1) supervising probation officer;
- ~~(7) (6)~~ two (2) probation officers, one (1) whose primary responsibility is adult supervision and one (1) whose primary responsibility is juvenile supervision; and
- ~~(8) (7)~~ two (2) lay persons.

SECTION 12. IC 12-7-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. "Alcohol and drug services program", for purposes of IC 12-23, means a service for a person:

- (1) **who is arrested for**, charged with, or convicted of a misdemeanor or felony; ~~or~~
- (2) against whom a:
 - (A) complaint for an infraction is filed; or
 - (B) judgment for an infraction is entered; **or**

(3) who is referred to the program under IC 12-23-14-5; which provides intervention, education, referral, treatment, or rehabilitation, under the operation of a court or under private contract.

SECTION 13. IC 15-15-12-36, AS ADDED BY P.L.2-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 36. (a) If a first purchaser fails to remit the assessments collected during a period specified in section 32 of this chapter within thirty (30) days after the end of the period, the council shall contact the first purchaser and allow the first purchaser to present comments to the council concerning:

C
o
p
y



1 (1) the status and amount of the assessments due; and
 2 (2) reasons why the council should not bring legal action against
 3 the first purchaser.
 4 (b) After allowing a first purchaser the opportunity to present
 5 comments, the council:
 6 (1) may adjust the amount of the assessments due, if the first
 7 purchaser's comments reveal that the council's figure is
 8 inaccurate;
 9 (2) may assess a penalty against the first purchaser;
 10 (3) shall:
 11 (A) assess a fee for an unpaid assessment due the council,
 12 from a person responsible for remitting assessments, at the rate
 13 of two percent (2%) of the amount of the unpaid assessment
 14 each month, beginning with the day following the date the
 15 assessment is due under this subsection; and
 16 (B) if there is any remaining amount due after the assessment
 17 of the fee under clause (A), assess a fee at the same rate on the
 18 corresponding day of each month thereafter until the entire
 19 amount of the unpaid assessment is paid;
 20 (4) shall compute the amounts payable on unpaid assessments
 21 under this section monthly and include any unpaid late charges
 22 previously applied under this section; and
 23 (5) shall determine the date of a payment for purposes of this
 24 subsection by the postmark applied to the remitting envelope.
 25 (c) If a first purchaser fails to remit assessments after being allowed
 26 to present comments under subsection (a) or to pay any penalty
 27 assessed under subsection (b), the council may bring a civil action
 28 against the first purchaser in a circuit or superior or municipal court of
 29 any county. The action shall be tried and a judgment rendered as in any
 30 other proceeding for the collection of a debt. In an action under this
 31 subsection, the council may obtain:
 32 (1) a judgment in the amount of all unremitted assessments and
 33 any unpaid penalty; and
 34 (2) an award of the costs of bringing the action.
 35 SECTION 14. IC 15-15-12-39, AS ADDED BY P.L.2-2008,
 36 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2009]: Sec. 39. (a) If a person fails to discharge a duty
 38 imposed by this chapter other than remitted assessments, the council
 39 shall allow the person an opportunity to present comments to the
 40 council concerning reasons why the council should not bring legal
 41 action against the person. If it is necessary to obtain compliance with
 42 this chapter, the council may bring an action against the person in a

C
O
P
Y



1 circuit ~~or superior or municipal~~ court of any county seeking an
 2 injunction mandating compliance and any other appropriate legal
 3 remedies.

4 (b) In an action under this section, the council may be granted
 5 injunctive relief without establishing the absence of an adequate
 6 remedy at law.

7 SECTION 15. IC 32-26-5-2 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Upon receiving
 9 a complaint in writing signed by an owner of land adjoining a hedge or
 10 fence to which this chapter applies alleging that the owner of the fence
 11 has neglected to cut and trim the hedge or fence, the township trustee
 12 shall examine, within five (5) days after receiving the complaint, the
 13 hedge or other live fence.

14 (b) If the hedge or other live fence that is the subject of the
 15 complaint under subsection (a) has not been cut and trimmed, the
 16 township trustee shall give the owner of the hedge or other live fence
 17 written notice to cut and trim the hedge or other live fence and to
 18 remove the brush to the owner's property within thirty (30) days after
 19 receiving the notice.

20 (c) The notice required under subsection (b) must be served by
 21 reading the notice to the owner or by leaving a copy of the notice at the
 22 owner's usual place of residence. If the owner of properties divided by
 23 the hedge or other live fence is not a resident of the township where the
 24 hedge or other live fence is located, the notice shall be served by
 25 mailing a copy of the notice to the owner directed to the owner's last
 26 known post office address.

27 (d) If the owner or the owner's agents or tenants do not cut and trim
 28 the fences and remove the brush, the trustee shall, immediately after
 29 the expiration of thirty (30) days, cause the hedge or other live fence to
 30 be cut and trimmed and the brush removed to the owner's property.

31 (e) The trustee shall recover all expenses incurred under subsection
 32 (d) by bringing a suit against the owner of the property on which the
 33 hedge or live fence is situated before ~~the county court~~, the circuit court
 34 or the superior court of the county in which the hedge or other live
 35 fence is situated. Collection of the expenses and any judgment
 36 recovered shall be without relief from valuation or appraisal laws.

37 SECTION 16. IC 32-31-3-11 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) The following
 39 courts have original and concurrent jurisdiction in cases arising under
 40 this chapter:

41 (1) A circuit court.

42 (2) A superior court.

C
o
p
y



1 ~~(3) A county court.~~

2 ~~(4) A municipal court.~~

3 ~~(5) (3) A small claims court.~~

4 (b) A case arising under this chapter may be filed on the small
5 claims docket of a court that has jurisdiction.

6 SECTION 17. IC 33-23-3-1, AS AMENDED BY P.L.32-2005,
7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2009]: Sec. 1. (a) A circuit court, a superior court, ~~a county~~
9 ~~court~~, a probate court, the tax court, or the court of appeals may apply
10 to the supreme court for the appointment of a senior judge to serve the
11 court.

12 (b) The application submitted under this section must include the
13 following:

14 (1) Reasons for the request.

15 (2) Estimated duration of the need for a senior judge.

16 SECTION 18. IC 33-23-3-2, AS AMENDED BY P.L.32-2005,
17 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2009]: Sec. 2. Upon approving the request by a circuit court,
19 a superior court, ~~a county court~~, a probate court, the tax court, or the
20 court of appeals for a senior judge, the supreme court may appoint a
21 senior judge to serve that court for the duration specified in the
22 application submitted under section 1 of this chapter.

23 SECTION 19. IC 33-23-3-4, AS AMENDED BY P.L.32-2005,
24 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2009]: Sec. 4. The supreme court may not require a senior
26 judge to accept an assignment to serve a circuit court, a superior court,
27 ~~a county court~~, a probate court, the tax court, or the court of appeals. If
28 a senior judge declines an assignment to serve, the supreme court may
29 offer the senior judge subsequent assignments to serve a circuit court,
30 a superior court, ~~a county court~~, a probate court, the tax court, or the
31 court of appeals.

32 SECTION 20. IC 33-23-12-2 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) As used in this
34 chapter, "court employee" means a person employed by any of the
35 following:

36 (1) The supreme court.

37 (2) The court of appeals.

38 (3) The tax court.

39 (4) A circuit court.

40 (5) A superior court.

41 (6) A juvenile court.

42 (7) A probate court.

C
o
p
y



(8) ~~A county court.~~

(9) ~~A municipal court.~~

(10) (8) A city or town court.

(11) (9) A small claims court.

(b) The term does not include a judge of any of the courts listed in subsection (a)(1) through ~~(a)(11)~~: (a)(9).

SECTION 21. IC 33-24-3-7, AS AMENDED BY P.L.32-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) The supreme court may appoint a judge who is certified as a senior judge by the judicial nominating commission to serve a circuit court, a superior court, ~~a county court~~, a probate court, the tax court, or the court of appeals if the court requests the services of a senior judge.

(b) The supreme court may adopt rules concerning:

(1) certification by the judicial nominating commission; and

(2) appointment by the supreme court;
of senior judges.

SECTION 22. IC 33-28-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) The minor offenses and violations docket has jurisdiction over the following:

(1) All Class D felony cases.

(2) All misdemeanor cases.

(3) All infraction cases.

(4) All ordinance violation cases.

(b) The court shall establish a traffic violations bureau in the manner prescribed by IC 34-28-5-7 through ~~IC 34-28-5-10~~.
IC 34-28-5-9.

SECTION 23. IC 33-32-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. In a county having one (1) or more superior courts or a ~~county, municipal, or~~ probate court, the clerk shall serve as clerk of the superior ~~county~~, and probate court as well as clerk of the circuit court.

SECTION 24. IC 33-33-45-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 6.5. Each judge of the county division of the superior court of Lake County shall maintain the following dockets:**

(1) **An offenses and violations docket.**

(2) **A small claims docket for the following:**

(A) **All cases where the amount sought or value of the property sought to be recovered is not more than six thousand dollars (\$6,000). The plaintiff in a statement of**

C
o
p
y



claim or the defendant in a counterclaim may waive the excess of the claim that is over six thousand dollars (\$6,000) to bring the claim within the jurisdiction of the small claims docket.

(B) All possessory actions between landlord and tenant in which the rent due at the time the action is filed is not more than six thousand dollars (\$6,000).

(C) Emergency possessory actions between a landlord and tenant under IC 32-31-4.

(3) A plenary docket for all other civil cases.

SECTION 25. IC 33-37-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This article applies to all proceedings in the following courts:

(1) Circuit courts (Article 7, Section 7 of the Constitution of the State of Indiana, IC 33-28, and IC 33-33).

(2) Superior courts (IC 33-29 and IC 33-33).

~~(3) County courts (IC 33-30).~~

~~(4) (3)~~ Probate courts (IC 33-31).

~~(5) (4)~~ City and town courts (IC 33-35).

SECTION 26. IC 33-37-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The qualified municipality share to be distributed to each city and town maintaining a law enforcement agency that prosecutes at least fifty percent (50%) of the city's or town's ordinance violations in a circuit ~~or~~ superior ~~or~~ county court located in the county is three percent (3%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

(4) IC 33-37-4-4(a) (civil costs fees).

(5) IC 33-37-4-6(a)(1) (small claims costs fees).

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The county auditor shall determine the amount to be distributed to each city and town qualified under subsection (a) as follows:

STEP ONE: Determine the population of the qualified city or town.

STEP TWO: Add the populations of all qualified cities and towns determined under STEP ONE.

STEP THREE: Divide the population of each qualified city and town by the sum determined under STEP TWO.

STEP FOUR: Multiply the result determined under STEP THREE

C
o
p
y



for each qualified city and town by the amount of the qualified municipality share.

(c) The county auditor shall distribute semiannually to each city and town described in subsection (a) the amount computed for that city or town under STEP FOUR of subsection (b).

(d) This section applies after June 30, 2005.

SECTION 27. IC 33-38-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. Each judge of each:

(1) judicial circuit containing more than one (1) county;

~~(2) county court serving more than one (1) county;~~ and

~~(3)~~ (2) superior court district containing more than one (1) county;

shall be paid two thousand dollars (\$2,000) per year to reimburse the judge for traveling and other necessary expenses. Two thousand dollars (\$2,000) for each judge is appropriated annually from the state general fund not otherwise appropriated.

SECTION 28. IC 33-38-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. When a person is appointed as judge of a city ~~or municipal~~ court, a certified copy of the appointment shall be sent by the appointing authority to the clerk of the circuit court of the county in which the city is located.

SECTION 29. IC 33-38-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. The appointment described in section 1 of this chapter shall be recorded in the order book of the circuit court, and the record authorizes the clerk to certify that the judge is the:

(1) appointed;

(2) qualified; and

(3) acting;

judge of the city ~~or municipal~~ court for which the judge was appointed.

SECTION 30. IC 33-38-5-6, AS AMENDED BY P.L.159-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) The annual salary of each full-time judge of a circuit, superior, ~~municipal, county,~~ or probate court is one hundred ten thousand five hundred dollars (\$110,500), as adjusted after June 30, 2006, under section 8.1 of this chapter, paid by the state. In addition, a judge under this section may receive any additional salary provided by the county under IC 36-2-5-14 or IC 36-3-6-3(c). The state shall deposit quarterly the money received from the counties under subsection (c) for additional salary in the state general fund.

(b) Before November 2 of each year, the county auditor of each county shall certify to the division of state court administration the amounts, if any, to be provided by the county during the ensuing

C
o
p
y



1 calendar year for judges' salaries under IC 36-2-5-14 or IC 36-3-6-3(c).

2 (c) When making each payment under subsection (a), the county
3 shall determine for each judge whether the total of:

4 (1) the payment made on behalf of that judge;

5 (2) previous payments made on behalf of that judge in the same
6 calendar year; and

7 (3) the state share of the judge's salary under subsection (a);
8 exceeds the Social Security wage base established by the federal
9 government for that year. If the total does not exceed the Social
10 Security wage base, the payment on behalf of that judge must also be
11 accompanied by an amount equal to the employer's share of Social
12 Security taxes and Medicare taxes. If the total exceeds the Social
13 Security wage base, the part of the payment on behalf of the judge that
14 is below the Social Security wage base must be accompanied by an
15 amount equal to the employer's share of Social Security taxes and
16 Medicare taxes, and the part of the payment on behalf of the judge that
17 exceeds the Social Security wage base must be accompanied by an
18 amount equal to the employer's share of Medicare taxes. Payments
19 made under this subsection shall be deposited in the state general fund
20 under subsection (a).

21 (d) For purposes of determining the amount of life insurance
22 premiums to be paid by a judge who participates in a life insurance
23 program that:

24 (1) is established by the state;

25 (2) applies to a judge who is covered by this section; and

26 (3) bases the amount of premiums to be paid by the judge on the
27 amount of the judge's salary;

28 the judge's salary does not include any amounts paid to the state by a
29 county under subsection (a).

30 SECTION 31. IC 33-38-9-3 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The judicial
32 conference of Indiana is established.

33 (b) The membership of the judicial conference consists of the
34 following:

35 (1) All justices of the supreme court.

36 (2) All judges of the court of appeals.

37 (3) The judge of the tax court.

38 (4) All circuit, superior, **and** probate **and** county court judges.

39 ~~(5) All municipal court judges who are serving on a full-time~~
40 ~~basis.~~

41 ~~(6)~~ (5) Any retired judge who serves as a special judge and
42 notifies the conference of the service.

C
o
p
y



(c) A full-time magistrate under IC 33-23-5 is a nonvoting member of the conference.

SECTION 32. IC 33-38-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A person who:

(1) has ~~been held~~ but is not currently a ~~judge of a circuit, superior, criminal, probate, municipal, or county court~~ **holding a judicial office** and has served in the capacity of judge **or justice** for at least four (4) consecutive years;

(2) is admitted to the practice of law in Indiana; and

(3) is a resident of Indiana;

may act as judge for certain cases under this chapter.

(b) A person may act as a judge of a case under this chapter only if:

(1) all parties to the action file a written petition with the executive director of the division of state court administration consenting to the case being heard by a private judge, and naming the person whom the parties wish to have as private judge;

(2) the case is one over which the court in which the former judge served would have had subject matter and monetary jurisdiction;

(3) the case:

(A) is founded exclusively on contract, tort, or a combination of contract and tort; **or**

(B) **involves a domestic relations matter**; and

(4) the case is one in which a utility (as defined in IC 8-1-2-1) is not a party.

SECTION 33. IC 33-38-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A former judge

or justice qualified under section 2(a) of this chapter who wishes to serve as a private judge must register with the executive director of the division of state court administration. The executive director shall:

(1) compile;

(2) periodically update; and

(3) make available to the public;

a list of registered former judges **and justices**.

(b) If the parties to an action wish to have the action heard before a private judge, the parties shall submit to the executive director of the division of state court administration a written petition as described in section 2(b)(1) of this chapter. After verifying that the former judge **or justice** is qualified under section 2(a) of this chapter and is registered under subsection (a), the executive director shall forward the petition to the former judge **or justice** named on the petition.

(c) The regular or presiding judge of the court in which the action is filed shall appoint the private judge to hear the action if the written

C
o
p
y



petition of the parties to the action and the written consent of the private judge to hear the action ~~is~~ **are** presented to the regular or presiding judge:

- (1) contemporaneously with the filing of the action; or
- (2) after the action has been filed.

SECTION 34. IC 33-38-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The judge of a circuit ~~or superior or county~~ court may appoint temporary judges. Each temporary judge must be:

- (1) a competent attorney admitted to the practice of law in Indiana; and
- (2) a resident of the judicial district of the court after the temporary judge's appointment.

The temporary judge's appointment must be in writing. The temporary judge continues in office until removed by the judge.

(b) A temporary juvenile law judge may be appointed under this subsection for the exclusive purpose of hearing cases arising under IC 31-30 through IC 31-40. The appointment shall be made under an agreement between at least two (2) judges of courts located:

- (1) in the same county; or
 - (2) in counties that are adjacent to each other.
- (c) An agreement under subsection (b) must:
- (1) be filed with the circuit court clerk of each county in which a court subject to the agreement is located;
 - (2) specify the duration of the agreement, which may not exceed one (1) year; and
 - (3) permit a judge to end the participation of a court in the agreement.

SECTION 35. IC 33-41-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) Every official circuit, superior, criminal, probate, **and** juvenile ~~and county~~ court reporter appointed under section 1 of this chapter ~~or IC 33-30-7-2~~ may do the following:

- (1) Take and certify all acknowledgments of deeds, mortgages, or other instruments of writing required or authorized by law to be acknowledged.
- (2) Administer oaths generally.
- (3) Take and certify affidavits, examinations, and depositions.
- (4) Perform any duty conferred upon a notary public by Indiana statutes.

(b) Any official reporter taking examinations and depositions may:

- (1) take them in shorthand;

**C
O
P
Y**



(2) transcribe them into typewriting or longhand; and

(3) have them signed by the deposing witness.

(c) Before performing any official duty as authorized, an official reporter must:

(1) provide a bond as is required for notaries public; and

(2) procure a seal that will stamp a distinct impression indicating the reporter's official character, to which may be added any other device as the reporter chooses.

SECTION 36. IC 34-9-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided under subsection (c), a civil action may be prosecuted or defended by a party:

(1) in person; or

(2) represented by an attorney.

(b) If the state of Indiana is a party to a civil action filed on the small claims docket of a circuit court ~~or~~ superior court, ~~or county court~~, the state of Indiana is not required to appear by attorney.

(c) A corporation and any organization required to make application to the secretary of state under IC 25-11-1-3 must appear by attorney in all cases. However, corporations organized under:

(1) IC 23-1;

(2) IC 23-1.5;

(3) IC 23-7-1.1 (before its repeal on August 1, 1991); or

(4) IC 23-17;

are not required to appear by attorney in civil cases filed on a small claims docket of a circuit ~~or~~ superior ~~or county~~ court.

SECTION 37. IC 34-24-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The prosecuting attorney for the county in which the seizure occurs may, within ninety (90) days after receiving written notice from the owner demanding return of the seized property or within one hundred eighty (180) days after the property is seized, whichever occurs first, cause an action for reimbursement of law enforcement costs and forfeiture to be brought by filing a complaint in the circuit ~~or~~ superior ~~or county~~ court in the jurisdiction where the seizure occurred. The action must be brought:

(1) in the name of the state or the state and the unit that employed the law enforcement officers who made the seizure if the state was not the employer; and

(2) within the period that a prosecution may be commenced under IC 35-41-4-2 for the offense that is the basis for the seizure.

(b) If the property seized was a vehicle or real property, the prosecuting attorney shall serve, under the Indiana Rules of Trial

C
o
p
y



Procedure, a copy of the complaint upon each person whose right, title, or interest is of record in the bureau of motor vehicles, in the county recorder's office, or other office authorized to receive or record vehicle or real property ownership interests.

(c) The owner of the seized property, or any person whose right, title, or interest is of record may, within twenty (20) days after service of the complaint under the Indiana Rules of Trial Procedure, file an answer to the complaint and may appear at the hearing on the action.

(d) If, at the end of the time allotted for an answer, there is no answer on file, the court, upon motion, shall enter judgment in favor of the state and the unit (if appropriate) for reimbursement of law enforcement costs and shall order the property disposed of in accordance with section 4 of this chapter.

SECTION 38. IC 34-35-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) When a practicing attorney is called upon to preside in the place of the regular judge as a judge pro tempore, the attorney shall be allowed the following:

(1) The sum of twenty dollars (\$20) per day for each day or part of a day actually served.

(2) For each mile necessarily traveled each day in going to and returning from the place where the court is being held, a sum for mileage equal to that sum per mile paid to state officers and employees. The rate per mile shall change each time the state government changes its rate per mile.

(b) If such judge pro tempore is a resident of another county, the judge pro tempore shall be paid an additional sum of twenty dollars (\$20) for each day or part of a day actually served, making a total of forty dollars (\$40).

(c) The judge pro tempore shall be paid on the presentation of:

(1) an order made by the court for the allowance, specifying the days of service and mileage, if any, supported by the affidavit of the judge pro tempore that the judge pro tempore actually served the days, and the miles traveled were necessary; and

(2) an affidavit of the regular judge stating the reason for the service of the judge pro tempore.

(d) The payment under subsection (c) shall be paid out of the county treasury for the time being, for which the county shall have credit on settlement with the treasurer of state.

(e) In change of venue from one (1) court to another court of the same county, or from one (1) judge to another judge of the same county, the compensation provided for in this section does not apply,

**C
o
p
y**



1 unless the other court or judge to which the change is taken is situated
2 in another city in the same county.

3 (f) A full-time judge of a circuit ~~or~~ superior ~~or county~~ court may not
4 be paid compensation for serving as a special judge, except reasonable
5 expenses for meals, lodging, travel, and other incidental expenses
6 approved by the state court administrator.

7 SECTION 39. IC 35-33-2-3 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The warrant is
9 issued to the sheriff of the county where the indictment or information
10 is filed. This warrant may be served or arrests on it made:

- 11 (1) by any law enforcement officer;
12 (2) on any day of the week; and
13 (3) at any time of the day or night.

14 (b) A law enforcement officer may break open any outer or inner
15 door or window in order to execute an arrest warrant, if ~~he~~ **the officer**
16 is not admitted following an announcement of ~~his~~ **the officer's**
17 authority and purpose.

18 (c) The accused person shall be delivered to the sheriff of the county
19 in which the indictment or information was filed, and the sheriff shall
20 commit the accused person to jail or hold ~~him~~ **the accused person** to
21 bail as provided in this article.

22 (d) A person or persons whose property is wrongfully damaged or
23 whose person is wrongfully injured by any law enforcement officer or
24 officers who wrongfully enter may recover such damage from the
25 responsible authority and the law enforcement officer or officers as the
26 court may determine. The action may be filed in the circuit court ~~or~~
27 superior court ~~or county court~~ in the county where the wrongful entry
28 took place.

29 SECTION 40. IC 35-33-5-7 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) A search warrant
31 issued by a court of record may be executed according to its terms
32 anywhere in the state. A search warrant issued by a court that is not a
33 court of record may be executed according to its terms anywhere in the
34 county of the issuing court.

35 (b) A search warrant must be:

- 36 (1) executed not more than ten (10) days after the date of
37 issuance; and
38 (2) returned to the court without unnecessary delay after the
39 execution.

40 (c) A search warrant may be executed:

- 41 (1) on any day of the week; and
42 (2) at any time of the day or night.

C
o
p
y



(d) A law enforcement officer may break open any outer or inner door or window in order to execute a search warrant, if ~~he~~ **the officer** is not admitted following an announcement of ~~his~~ **the officer's** authority and purpose.

(e) A person or persons whose property is wrongfully damaged or whose person is wrongfully injured by any law enforcement officer or officers who wrongfully enter may recover such damage from the responsible authority and the law enforcement officer or officers as the court may determine. The action may be filed in the circuit court **or** superior court ~~or county court~~ in the county where the wrongful entry took place.

SECTION 41. IC 35-38-2-1, AS AMENDED BY P.L.1-2006, SECTION 529, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Whenever it places a person on probation, the court shall:

- (1) specify in the record the conditions of the probation; and
- (2) advise the person that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(b) In addition, if the person was convicted of a felony and is placed on probation, the court shall order the person to pay to the probation department the user's fee prescribed under subsection (d). If the person was convicted of a misdemeanor, the court may order the person to pay the user's fee prescribed under subsection (e). The court may:

- (1) modify the conditions (except a fee payment may only be modified as provided in section 1.7(b) of this chapter); or
- (2) terminate the probation;

at any time. If the person commits an additional crime, the court may revoke the probation.

(c) If a clerk of a court collects a probation user's fee, the clerk:

- (1) may keep not more than three percent (3%) of the fee to defray the administrative costs of collecting the fee and shall deposit any fee kept under this subsection in the clerk's record perpetuation fund established under IC 33-37-5-2; and

(2) if requested to do so by the county auditor, city fiscal officer, or town fiscal officer under clause (A), (B), or (C), transfer not more than three percent (3%) of the fee to the:

- (A) county auditor, who shall deposit the money transferred under this subdivision into the county general fund;

**C
O
P
Y**



(B) city general fund when requested by the city fiscal officer;
or

(C) town general fund when requested by the town fiscal officer.

(d) In addition to any other conditions of probation, the court shall order each person convicted of a felony to pay:

(1) not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) as an initial probation user's fee;

(2) a monthly probation user's fee of not less than fifteen dollars (\$15) nor more than thirty dollars (\$30) for each month that the person remains on probation;

(3) the costs of the laboratory test or series of tests to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV) if such tests are required by the court under section 2.3 of this chapter;

(4) an alcohol abuse deterrent fee and a medical fee set by the court under IC 9-30-9-8, if the court has referred the defendant to an alcohol abuse deterrent program; and

(5) an administrative fee of one hundred dollars (\$100);
to either the probation department or the clerk.

(e) In addition to any other conditions of probation, the court may order each person convicted of a misdemeanor to pay:

(1) not more than a fifty dollar (\$50) initial probation user's fee;

(2) a monthly probation user's fee of not less than ten dollars (\$10) nor more than twenty dollars (\$20) for each month that the person remains on probation;

(3) the costs of the laboratory test or series of tests to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV) if such tests are required by the court under section 2.3 of this chapter; and

(4) an administrative fee of fifty dollars (\$50);
to either the probation department or the clerk.

(f) The probation department or clerk shall collect the administrative fees under subsections (d)(5) and (e)(4) before collecting any other fee under subsection (d) or (e). All money collected by the probation department or the clerk under this section shall be transferred to the county treasurer, who shall deposit the money into the county supplemental adult probation services fund. The fiscal body of the county shall appropriate money from the county supplemental adult probation services fund:

**C
O
P
Y**



(1) to the ~~county~~, superior ~~or~~ circuit ~~or municipal~~ court of the county that provides probation services to adults to supplement adult probation services; and

(2) to supplement the salaries of probation officers in accordance with the schedule adopted by the county fiscal body under IC 36-2-16.5.

(g) The probation department or clerk shall collect the administrative fee under subsection (e)(4) before collecting any other fee under subsection (e). All money collected by the probation department or the clerk of a city or town court under this section shall be transferred to the fiscal officer of the city or town for deposit into the local supplemental adult probation services fund. The fiscal body of the city or town shall appropriate money from the local supplemental adult probation services fund to the city or town court of the city or town for the court's use in providing probation services to adults or for the court's use for other purposes as may be appropriated by the fiscal body. Money may be appropriated under this subsection only to those city or town courts that have an adult probation services program. If a city or town court does not have such a program, the money collected by the probation department must be transferred and appropriated as provided under subsection (f).

(h) Except as provided in subsection (j), the county or local supplemental adult probation services fund may be used only to supplement probation services and to supplement salaries for probation officers. A supplemental probation services fund may not be used to replace other funding of probation services. Any money remaining in the fund at the end of the year does not revert to any other fund but continues in the county or local supplemental adult probation services fund.

(i) A person placed on probation for more than one (1) crime:

(1) may be required to pay more than one (1) initial probation user's fee; and

(2) may not be required to pay more than one (1) monthly probation user's fee per month;

to the probation department or the clerk.

(j) This subsection applies to a city or town located in a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000). Any money remaining in the local supplemental adult probation services fund at the end of the local fiscal year may be appropriated by the city or town fiscal body to the city or town court for use by the court for purposes determined by the fiscal body.

**C
o
p
y**



(k) In addition to other methods of payment allowed by law, a probation department may accept payment of fees required under this section and section 1.5 of this chapter by credit card (as defined in IC 14-11-1-7). The liability for payment is not discharged until the probation department receives payment or credit from the institution responsible for making the payment or credit.

(l) The probation department may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the probation department or charged directly to the probation department's account, the probation department may collect a credit card service fee from the person using the bank or credit card. The fee collected under this subsection is a permitted additional charge to the money the probation department is required to collect under subsection (d) or (e).

(m) The probation department shall forward the credit card service fees collected under subsection (l) to the county treasurer or city or town fiscal officer in accordance with subsection (f) or (g). These funds may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

SECTION 42. IC 36-2-16-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. If a county has:

- (1) a superior ~~or county~~ court; or
- (2) two (2) or more courthouses in which branches of county offices are maintained;

the deputies in charge of the various courts or branches rank as, and shall be compensated as, first or chief deputies.

SECTION 43. IC 36-7-9-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) The department, acting through its enforcement authority, a person designated by the enforcement authority, or a community organization may bring a civil action regarding unsafe premises in the circuit ~~or superior or municipal~~ court of the county. The department is not liable for the costs of such an action. The court may grant one (1) or more of the kinds of relief authorized by sections 18 through 22 of this chapter.

(b) A civil action may not be initiated under this section before the final date of an order or an extension of an order under section 5(c) of this chapter requiring:

- (1) the completion; or
- (2) a substantial beginning toward accomplishing the completion; of the required remedial action.

(c) A community organization may not initiate a civil action under this section if:

C
o
p
y



(1) the enforcement authority or a person designated by the enforcement authority has filed a civil action under this section regarding the unsafe premises; or

(2) the enforcement authority has issued a final order that the required remedial action has been satisfactorily completed.

(d) A community organization may not initiate a civil action under this section if the real property that is the subject of the civil action is located outside the specific geographic boundaries of the area defined in the bylaws or articles of incorporation of the community organization.

(e) At least sixty (60) days before commencing a civil action under this section, a community organization must issue a notice by certified mail, return receipt requested, that:

(1) specifies:

(A) the nature of the alleged nuisance;

(B) the date the nuisance was first discovered;

(C) the location on the property where the nuisance is allegedly occurring;

(D) the intent of the community organization to bring a civil action under this section; and

(E) the relief sought in the action; and

(2) is provided to:

(A) the owner of record of the premises;

(B) tenants located on the premises;

(C) the enforcement authority; and

(D) any person that possesses an interest of record.

(f) In any action filed by a community organization under this section, a court may award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party.

SECTION 44. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 3-8-1-18; IC 33-30; IC 34-28-5-10.

C
O
P
Y



COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 122, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 14, delete lines 33 through 42.

Page 15, delete lines 1 through 7.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 122 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 9, Nays 0.

C
O
P
Y

